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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,204	12/04/2001	Hiromichi Inagaki	Komatsu Case 260	8211
7590 12/05/2003				
Flynn Thiel Boutell & Tanis 2026 Rambling Road Kalamazoo, MI 49008-1699				
EXAMINER				
CHANG, VICTOR S				
ART UNIT		PAPER NUMBER		
1771				

DATE MAILED: 12/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/009,204	Applicant(s) INAGAKI ET AL.	
	Examiner Victor S Chang	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>091503</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

1. The Examiner has carefully considered Applicants' amendments and remarks filed on 9/29/2003. Applicants' amendments to the specification, cancellation of claims 1 and 2, and newly added claims 3-11 have all been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Rejections not maintained are withdrawn. In particular, with respect to JP 08-006229, Applicants' argument that "there is no motivation contained in this reference to combine it with JP '229" is persuasive. As such, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a newly found prior art reference Kurahashi (US 4576854).

Claim Rejections - 35 USC § 112

4. Claims 3-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 3 and 11, lines line 8-10 and 11-13, respectively, the recitation "total volume of the exposed portions of the adhesive agent layer being the product of the surface area of the exposed portions of the adhesive agent layer and the thickness of the protective layer" is vague, indefinite and confusing. In particular, the "total volume" clearly relates a "space" (see cancelled claim 1) above the surface of the adhesive

agent layer, and it is inappropriate to recite the "volume" of the space being "exposed portions of the adhesive layer". Appropriate amendment and clarification is required.

In claim 5, line 2, the phrase "wavy form" appears vague and indefinite, for the purpose of this Office Action, it is presumed to be the formation shown in Fig. 4.

Response to Amendment

5. Claims 3, 5, 6 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 49-30430 (English Abstract), substantially for the reasons set forth in section 4 of Paper No. 0923, together with the following additional observations.

Applicants' response arguing that "actually the support tape is flat after adhesion of the fastener tape, as shown in Fig. 4 of JP '430. As such, in this reference, the adhesive fastener is not provided with spaces having a size based on the adhesion strength required for the desired adhesion to the object" (Remarks, page 7, first paragraph) has been carefully considered, but is not persuasive. The Examiner repeats (see Paper No. 0923, page 3) that JP '430 expressly teaches an adhesive sheet (or fastener) comprising a non-adhesive layer such as fine particles, fine fibers or fine mesh on an adhesive layer, and a support layer. Further, JP '430 teaches that the adhesion and releasing can be repeated (Abstract). As such, for newly added claim 3, JP '430 clearly discloses the invention as claimed. The fact that JP '430 may also disclose an embodiment which comprises a rigid backing is irrelevant.

For newly added claim 5, it is noted that JP '430 expressly teaches that the support tape includes paper, cloth, film, etc. As such, JP '430 clearly discloses a

flexible support tape, which is believed to inherently become "wavy form" upon application to an adherand.

For newly added claim 6, JP '430 teaches a non-adhesive layer such as fine particles, fine fibers or fine mesh, as set forth above. Additionally, JP '430 shows the aforementioned patterns in Figs. 1-3.

Finally, newly added claim 11 essentially recites the same elements of claims 1, 5 and 6. As such it is also rejected as set forth above.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 49-30430 (English Abstract) in view of Kurahashi (US 4576854).

The teachings of JP '430 are again relied upon as set forth above.

For claim 4, it is noted that JP '430 lacks an express teaching of forming a colored substrate surface on the side next to the adhesive layer. However, it is noted that Kurahashi's invention is directed to a packaging tape have a self-adhesive layer (column 1, lines 6-9), and Kurahashi teaches that in a modified practical embodiment of the packaging tape, an ink colored layer is preferably incorporated between the tape substrate and the self-adhesive layer in a case where printed color is desired for the tape with an aim of indication or aesthetic appearance (column 6, lines 31-36). As such, it would have been obvious to one of ordinary skill in the art to modify JP '430 with an ink colored layer of Kurahashi, motivated by the desire to provide an aim of indication or aesthetic appearance.

7. Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 49-30430 (English Abstract).

The teachings of JP '430 are again relied upon as set forth above.

For claim 7, it is noted that JP '430 lacks an express teaching that the adhesive agent layer and non-adhesive material layer are formed on both sides of support. However, it is believed that forming double sided pressure sensitive adhesive is old and well known. As such, it would have been obvious to one of ordinary skill in the art of adhesive tape to form a double sided adhesive tape based on the teachings of JP '430, motivated by the desire to releasably bond two adherands together.

For claims 8 and 9, it is noted that JP '430 lacks an express teaching that the substrate (i.e., support) is a cast polyolefin film or a laminate of cast PP film and OPP film. However, it is believed that the aforementioned film or laminate is old and well known as a suitable substrate for pressure sensitive adhesive tape. Further, JP '430 does expressly teach the use of a film as support, as set forth above. As such, it would have been obvious to one of ordinary skill in the art to form the tape of JP '430 with a substrate of polyolefin film or laminate, motivated by the desire to use a commonly available and inexpensive substrate.

Finally, for claim 10, it is believed that through holes are inherently disclosed by the cloth support tape, as set forth above.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1771

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

VSC

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP 1900
1700

Daniel Zinker